

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:06CV473

IN RE: )  
MARIANO OSPINA, )  
Debtor. )  
\_\_\_\_\_) )  
MARIANO H. OSPINA, )  
Appellant, )  
vs. )  
INDYMAC BANK, )  
Appellee. )  
\_\_\_\_\_)

ORDER

This matter is before the court upon Appellant's Emergency Motion for an Injunction. The Appellee has now filed a response. The Appellant seeks to enjoin IndyMac Bank from foreclosing on his home pending his bankruptcy appeal. IndyMac is proceeding with foreclosure against Appellant's property pursuant to the bankruptcy court's Order of November 15, 2006 granting IndyMac relief from Automatic Stay. The bankruptcy court subsequently denied the Debtor's Motion to Stay Pending Appeal.

The court has carefully reviewed the filings of the parties and the Orders of the bankruptcy court and finds that the Appellant has failed to adequately demonstrate the likelihood of irreparable harm if the injunction is denied. Even if Appellant were able to provide evidence of irreparable harm, he has not adequately demonstrated a likelihood of success on the merits of his appeal. Accordingly,

IT IS THEREFORE ORDERED that Appellant's Emergency Motion for an Injunction is hereby DENIED.

Signed: February 6, 2007



Graham C. Mullen  
United States District Judge

